



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,767	06/19/2001	Arthur Charles Ley	DYX-012.1 US	2306

7590 09/26/2002

LEON R. YANKWICH, ESQ.
YANKWICH AND ASSOCIATES
201 BROADWAY
CAMBRIDGE, MA 02139

EXAMINER

PATTERSON, CHARLES L JR

ART UNIT

PAPER NUMBER

1652

DATE MAILED: 09/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/884,767

Applicant(s)

LEY ET AL.

Examiner

Charles L. Patterson, Jr.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-49 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other:

Art Unit: 1652

Restriction to one of the following inventions is required under 35 U.S.C. 121:

1. Claims 1-7, drawn to a polypeptide, classified in class 530, subclass 326, 327, 329.
2. Claims 8-12, drawn to a polypeptide, classified in class 530, subclass 327, 328, 329.
- 3-185. Claim 13, drawn to a polypeptide of SEQ ID NO: 10-73 and 75-193, classified in class 350, subclass 329. The group number corresponds to the SEQ IDs.
186. Claims 14-20, drawn to a polynucleotide encoding an enterokinase cleavable fusion protein of SEQ ID NO:208, a vector and a host cell, classified in class 435, subclass 320.1 and 252.3 and class 536, subclass 23.1.
187. Claims 14-20, drawn to a polynucleotide encoding an enterokinase cleavable fusion protein of SEQ ID NO:209, a vector and a host cell, classified in class 435, subclass 320.1 and 252.3 and class 536, subclass 23.1.
188. Claims 21-24 and 26, drawn to a method for isolating a protein of interest comprising culturing a host cell expressing SEQ ID NO: 1 or 206, classified in class 435, subclass 69.7.
189. Claims 21-23 and 25, drawn to a method for isolating a protein of interest comprising culturing a host cell expressing SEQ ID NO: 2 or 207, classified in class 435, subclass 69.7.
190. Claims 27-35, drawn to a method for isolating a genetic package expressing SEQ ID NO:213, classified in class 530, subclass 344.
191. Claims 27-35, drawn to a method for isolating a genetic package expressing SEQ ID NO:215, classified in class 530, subclass 344.

Art Unit: 1652

192. Claims 27-35, drawn to a method for isolating a genetic package expressing SEQ ID NO:217, classified in class 530, subclass 344.

193. Claims 36-43, drawn to a method for controlling the activity of a protein of interest, classified in class 435, subclass 69.7.

194. Claims 44-49, drawn to a method of selecting display polypeptides from a display library, classified in class 435, subclass 69.7.

The inventions are distinct, each from the other because:

Groups (1-185) are drawn to different chemical compounds from groups (186 and 187) and are patentably distinct. The methods of groups 188-194 accomplish different things and the steps are different, and therefore they are patentably distinct.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles L. Patterson, Jr., PhD, whose telephone number is 703-308-1834. The examiner can normally be reached on Monday - Friday, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy can be reached on 703-308-3804. The fax phone numbers for the organization where this application or

Application/Control Number: 09/884,767

Page 4

Art Unit: 1652

proceeding is assigned are 703-308-4242 for regular communications and 703-308-0294 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.



Charles L. Patterson, Jr.
Primary Examiner
Art Unit 1652

Patterson
September 19, 2002